

JS 44C/SDNY
REV. 12/2005

JUDGE KEENAN

CIVIL COVER SHEET

U8 CIV 6241

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Sandra Quilico

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Richard M. Gutierrez (718) 520-0663
118-35 Queens Blvd. Ste. 1500
Forest Hills, NY 11375

DEFENDANTS

JUL 10 2008
Jose Escobar-Acurio and
Antonio Ortiz

ATTORNEYS (IF KNOWN)
Galvano & Xanthakis P.C.
150 Broadway, Ste. 2100
NY, NY 10038 (212) 349-5150

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

28 USC 1332, 28 USC 1441(a)

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously AssignedIf yes, was this case Vol ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
CONTRACT		PERSONAL INJURY		PERSONAL INJURY		[] 410 AGRICULTURE		[] 400 STATE	
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY -	[] 620 FOOD & DRUG	[] 422 APPEAL	[] 400 STATE				
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	MED MALPRACTICE	[] 625 DRUG RELATED	[] 423 WITHDRAWAL	REAPPORTIONMENT				
[] 130 MILLER ACT	LIABILITY	[] 365 PERSONAL INJURY	SEIZURE OF	28 USC 157	[] 410 ANTITRUST				
[] 140 NEGOTIABLE	[] 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	PROPERTY		[] 430 BANKS & BANKING				
INSTRUMENT	SLANDER	[] 368 ASBESTOS PERSONAL	21 USC 881		[] 450 COMMERCE/CC				
[] 150 RECOVERY OF	[] 330 FEDERAL	INJURY PRODUCT	[] 630 LIQUOR LAWS	PROPERTY RIGHTS	RATES/ETC				
OVERPAYMENT &	EMPLOYERS'	LIABILITY	[] 640 RR & TRUCK		[] 480 DEPORTATION				
ENFORCEMENT OF	LIABILITY		[] 650 AIRLINE REGS	[] 820 COPYRIGHTS	[] 470 RACKETEER INFLU-				
JUDGMENT	[] 340 MARINE	PERSONAL PROPERTY	[] 660 OCCUPATIONAL	[] 830 PATENT	ENCED & CORRUPT				
[] 151 MEDICARE ACT	[] 345 MARINE PRODUCT		[] 690 OTHER	[] 840 TRADEMARK	ORGANIZATION ACT				
[] 152 RECOVERY OF	LIABILITY	[] 370 OTHER FRAUD			(RICO)				
DEFAULTED	[X] 350 MOTOR VEHICLE	[] 371 TRUTH IN LENDING	LABOR	SOCIAL SECURITY	[] 480 CONSUMER CREDIT				
STUDENT LOANS	[] 355 MOTOR VEHICLE	[] 380 OTHER PERSONAL			[] 490 CABLE/SATELLITE TV				
(EXCL VETERANS)	PRODUCT LIABILITY	PROPERTY DAMAGE	[] 710 FAIR LABOR	[] 861 MIA (1395FF)	[] 810 SELECTIVE SERVICE				
[] 153 RECOVERY OF	[] 360 OTHER PERSONAL	PRODUCT LIABILITY	STANDARDS ACT	[] 862 BLACK LUNG (923)	[] 850 SECURITIES/				
OVERPAYMENT OF	INJURY		[] 720 LABOR/MGMT	[] 863 DMWC (405(g))	COMMODITIES/				
VETERANS BENEFITS			RELATIONS	[] 863 DMWW (405(g))	EXCHANGE				
[] 160 STOCKHOLDERS SUITS			[] 730 LABOR/MGMT	[] 864 SSID TITLE XVI	[] 875 CUSTOMER				
[] 190 OTHER CONTRACT			REPORTING &	[] 865 RSI (405(g))	CHALLENGE				
[] 195 CONTRACT PRODUCT			DISCLOSURE ACT		12 USC 3410				
LIABILITY			[] 740 RAILWAY LABOR ACT	FEDERAL TAX SUITS	[] 891 AGRICULTURE ACTS				
[] 196 FRANCHISE			[] 790 OTHER LABOR		[] 892 ECONOMIC				
			LITIGATION		STABILIZATION ACT				
			[] 791 EMPL RET INC		[] 893 ENVIRONMENTAL				
			SECURITY ACT		MATTERS				
					[] 894 ENERGY				
					ALLOCATION ACT				
					[] 870 TAXES				
					[] 871 IRS-THIRD PARTY				
					20 USC 7609				

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☐ 1 Original Proceeding
 ☒ 2a. Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court
 AND at least one party is a pro se litigant

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☒ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Sandra Quilico
 112 Lincoln Blvd.
 Emerson, NJ 07630

} As per plaintiff's summons

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Jose Escobar-Acurio, 945 Newton Street, No. Brunswick, NJ
 08902

Antonio Ortiz - 220 Horse Shoe Road, Berkeley Heights, NJ
 07922

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE
 (DO NOT check either box if this a PRISONER PETITION.)

DATE 7-10-08 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO
☒ YES (DATE ADMITTED Mo. 3 Yr. 98)
 Attorney Bar Code # CL-1195

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

JUDGE KEENAN

08 CIV 6241

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Filed Electronically

SANDRA QUILICO

Civ.

(Supreme Court, Bronx County)
Index Number: 301308/08

Plaintiff,

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

-against-

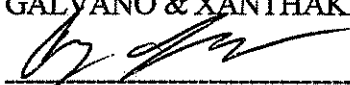
JOSE ESCOBAR-ACURIO and
ANTONIO ORTIZ

Defendants
_____X

PLEASE TAKE NOTICE that the attached Notice of Removal of this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York, was duly filed on July 10, 2008 in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1391(a)(2).

Dated: New York, New York
July 9, 2008

Yours, etc.
GALYANO & XANTHAKIS, P.C.



By: Craig Lamster (1195)
Attorneys for Defendants
150 Broadway, Suite 2100
New York, New York 10038
(212) 349-5150

TO: Richard M. Gutierrez
Attorney for Plaintiff
118-35 Queens Boulevard, Suite 1500
Forest Hills, NY 11375
(718) 520-0663

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Filed Electronically

SANDRA QUILICO

X

Civ.

(Supreme Court, Bronx County)
Index Number: 301308/08

Plaintiff,

-against-

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

JOSE ESCOBAR-ACURIO and
ANTONIO ORTIZ

Defendants

X

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. 1441, defendants, JOSE ESCOBAR-ACURIO and ANTONIO ORTIZ, hereby remove the above-captioned action from the Supreme Court of the State of New York, Bronx County, to the United States District Court for the Southern District of New York. Defendants appear for the purpose of removal only and for no other purpose and reserve all defenses available to them.

Defendants allege as follows:

1. Plaintiff has purported to commence the above-captioned action against the defendants in the Supreme Court of the State of New York, Bronx County. The defendants received a copy of the summons and complaint on March 8, 2008. (Copy of summons and complaint attached as Exhibit A) An answer was interposed to the complaint on April 8, 2008. (Copy of Answer attached as Exhibit B) That said action is now pending in the Supreme Court of the State of New York, Bronx County. That this Notice is being filed within thirty (30) days after the receipt of such documents wherein defendants believe the damages are in excess of \$75,000 and diversity exists pursuant to 28 U.S.C. 1446 (b).

2. The Summons, Verified Complaint and Answer constitutes all process and pleading in the

state court action to date. (Exhibit A)

3. Upon information and belief and as alleged in the Summons and Verified Complaint, plaintiff is a resident of the State of New Jersey.

4. Defendants at the commencement of the above-captioned action are residents of the State of New Jersey. Defendant, JOSE ESCOBAR-ACURIO resides at 945 Newton Street North Brunswick, New Jersey 08902. Defendant, ANTONIO ORTIZ resides at 220 Horseshoe Road, Berkeley Heights, New Jersey 07922. These are the addresses that are listed on the plaintiff's summons for service of process.

5. Plaintiff's complaint alleges that plaintiff was injured on August 8, 2007 as the result of a motor vehicle accident on the Cross Bronx Expressway, 50 feet east of the Jerome Avenue exit in Bronx, New York. (See Exhibit A, paragraph eighth)

6. The above-captioned action, therefore, is one of which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 and is one which may be removed to this Court by the defendants herein pursuant to the provisions of 28 U.S.C § 1441(a), in that it is a civil action in which the matter in controversy is believed to exceed the sum of \$75,000, exclusive of interest and costs, and are between citizens of different states.

7. On July 7, 2008, plaintiff provided a Bill of Particulars and responses to Combined Discovery Demands. (Copy of Bill of Particulars and Combined Discovery Responses attached as Exhibit C) Plaintiff also responded to the defendants' Demand for a Statement of Damages (See Exhibit C, paragraph 12 of the Response to Combined Demands) Plaintiff's response states "The Plaintiff is entitled to damages for future, present and past, pain and suffering, special damages and loss of employment. A monetary amount cannot be determined at the present time. Once all the information needed to make that evaluation is obtained, Plaintiff will more fully comply with this request."

8. Paragraph Twelfth of the plaintiff's complaint states "the Plaintiff, Sandra Quilico, was


caused to sustain severe, permanent and protracted personal injuries, was rendered sick, sore, lame and disabled; was and upon information and belief, will be incapacitated from attending to her normal duties and functions.” Plaintiff’s Bill of Particulars at paragraph 11 states that the plaintiff suffered injuries to her spine, neck and left hip. Plaintiff states that she only has one-half of the range of motion in her back and that all of her injuries are permanent. Based upon the allegations made by plaintiff in her complaint and bill of particulars, it is clear that plaintiff is seeking monetary damages in excess of \$75,000.

9. Defendants will promptly file a copy of this Notice in the Supreme Court of the State of New York for the County of Bronx, and will serve a copy of this Notice on counsel for plaintiff, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants respectfully request that the above-captioned action now pending against it in the Supreme Court of the State of New York for the County of Kings be removed from there to this Court.

Dated: New York, New York
July 9, 2008

Yours, etc.
GALVANO & XANTHAKIS, P.C.

By: 
Craig Lamster (1195)
Attorneys for Defendants
150 Broadway, Suite 2100
New York, New York 10038
(212) 349-5150